

**MINUTES FOR THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

November 25, 2003

DIVISION ONE

B161431 Lottie Nelson, et al. (Certified for Publication)
 v.
 County of Los Angeles

The award of damages (including interest thereon) is reversed, and the cause is remanded to the trial court for a new trial of the damage issues; in all other respects, the judgment is affirmed. The parties are to pay their own costs of this appeal.

Vogel (Miriam A.), J.

We concur: Ortega, Acting P.J.
 Mallano, J.

B169947 Lesly A. (Not for Publication)
 v.
 Superior Court, Los Angeles County
 (Los Angeles County Dept. of Children and Family Services, r.p.i.)

The petition is denied.

Mallano, J.

We concur: Spencer, P.J.
 Ortega, J.

DIVISION ONE (Continued)

B165746 Los Angeles County, D.C.S. (Not for Publication)

v.

Dawn B.

In re J.K., a minor

The orders are affirmed.

Mallano, J.

We concur: Spencer, P.J.
 Vogel (Miriam A.), J.

B164506 People (Not for Publication)

v.

Rosalva P.

The order under review is affirmed.

Mallano, J.

We concur: Spencer, P.J.
 Vogel (Miriam A.), J.

B165956 People (Not for Publication)

v.

Ramirez

The judgment is affirmed.

Spencer, P.J.

We concur: Ortega, J.
 Mallano, J.

November 25, 2003 (Continued)

DIVISION ONE (Continued)

B163621 People (Not for Publication)
v.
Loyd

The judgment is affirmed.

Spencer, P.J.

We concur: Ortega, J.
Mallano, J.

B162928 People (Not for Publication)
v.
Smith

The judgment is affirmed.

Spencer, P.J.

We concur: Ortega, J.
Mallano, J.

[illegible]

The order is affirmed.

Spencer, P.J.

We concur: Vogel (Miriam A.), J.
Mallano, J.

November 25, 2003 (Continued)

DIVISION ONE (Continued)

B164110 Peterson (Not for Publication)
v.
Steele Company

The judgment is affirmed.

Spencer, P.J.

We concur: Ortega, J.
Vogel (Miriam A.), J.

B166151 People (Not for Publication)
v.
Kyle Marcellus Briggs

The judgment is modified to strike the assessment and surcharge imposed pursuant to Penal Code section 1464 and Government Code section 76000. As so modified, it is affirmed.

Spencer, P.J.

We concur: Vogel (Miriam A.), J.
Mallano, J.

DIVISION TWO

B163311 Jewett (Certified for Publication)
v.
Capital One Bank, et al.

The orders of the trial court granting the motion to strike and awarding \$40,788.55 in fees and costs under section 425.16, subdivision (c) are reversed. Appellant shall receive costs of appeal. The matter is remanded to the trial court for consideration of an award of fees and costs to appellant.

Nott, Acting P.J.

We concur: Doi Todd, J.
 Ashmann-Gerst, J.

November 25, 2003 (Continued)

DIVISION TWO (Continued)

B159275 Stoll (Not for Publication)
v.
Bush, Jr., et al.

The judgment is affirmed. Respondent(s) to recover costs.

Doi Todd, J.

We concur: Nott, Acting P.J.
Ashmann-Gerst, J.

B161175 Kelsch, a Minor, etc. (Not for Publication)
v.
Caroe, et al.

The judgments are affirmed. Respondents to recover costs.

Doi Todd, J.

We concur: Boren, P.J.
 Ashmann-Gerst, J.

(Not for Publication)

B160952 Southern California Painters & Allied Trades District Council 36, AFL-CIO
v.
Nissim

The award of attorney fees is reversed. In all other respects, the judgment is affirmed. Costs on appeal are awarded to respondent.

Boren, P.J.

We concur: Nott, J.
Doi Todd, J.

DIVISION TWO (Continued)

B163335 National Council Against Health Fraud, Inc. (Not for Publication)
v.
Botanical Laboratories, Inc.

The order awarding attorney fees is reversed and the case is remanded for further proceedings consistent with this opinion. Appellant is awarded its costs on appeal.

Boren, P.J.

We concur: Nott, J.
Doi Todd, J.

B152751 Red Rock Ranch, LTD. (Not for Publication)
v.
Driscoll, et al.

The judgment appealed from is affirmed. Appellant shall pay respondents' costs of appeal.

Nott, J.

We concur: Boren, P.J.
Ashmann-Gerst, J.

B157755 North Valley Coalition of Concerned Citizens (Not for Publication)
v.
City of Los Angeles,
Browning-Ferris Industries of California, Inc.

The judgment appealed from is affirmed. The City of Los Angeles and Browning-Ferris Industries of California Inc. shall recover their costs of appeal from the North Valley Coalition of Concerned Citizens.

Nott, J.

We concur: Boren, P.J.
Doi Todd, J.

DIVISION TWO (Continued)

(Not for Publication)

B159992 Homeowners to Protect Education/Environment, et al.
v.
Montebello Unified School District, et al.

The judgment is affirmed. Respondents shall recover their costs of suit from appellants.

Nott, J.

We concur: Boren, P.J.
Ashmann-Gerst, J.

B158180 Rios, et al. (Not for Publication)
v.
American Golf Corporation, et al.

The judgment is affirmed. AGC is awarded its costs on appeal.

Nott, J.

We concur: Boren, P.J.
 Doi Todd, J.

B165710 McAdoo (Not for Publication)
v.
Workers Compensation Appeals Board

Substantial evidence does not support the finding that McAdoo reported the industrial injury after notice of layoff. Therefore, section 3600, subdivision (a)(10), does not bar McAdoo's claim. Moreover, the Kaiser records prior to the notice of layoff contain evidence of the injury within the meaning of section 3600, subdivision (a)(10)(B). The decision of the WCAB is annulled and the matter is remanded for further proceedings consistent with this opinion.

Ashmann-Gerst, J.

We concur: Nott, Acting P.J.
Doi Todd, J.

DIVISION TWO (Continued)

B161022 Yoon (Not for Publication)
v.
Stern, et al.

The judgment is affirmed.

Boren, P.J.

We concur: Doi Todd, J.
 Ashmann-Gerst, J.

[illegible]

The judgment is modified to reflect that the concurrent sentences of 25 years to life for assault in counts 4, 5 and 6 are stayed, the stays to become permanent upon completion of the sentences in counts 1, 2 and 3. In all other respects, the judgment is affirmed

Nott, J.

We concur: Boren, P.J.
Ashmann-Gerst, J.

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The judgment is affirmed.

Doi Todd, J.

We concur: Nott, Acting P.J.
 Ashmann-Gerst, J.

November 25, 2003 (Continued)

DIVISION TWO (Continued)

B164303 People (Not for Publication)
v.
Reed

The judgment appealed from is affirmed.

Nott, J.

We concur: Boren, P.J.
 Doi Todd, J.

B162324 People (Not for Publication)
v.
Sigmon and Lawrence

The judgments are affirmed.

Boren, P.J.

We concur: Doi Todd, J.
 Ashmann-Gerst, J.

B161589 People v. Clark (Not for Publication)

The judgment is affirmed.

Nott, J.

We concur: Boren, P.J.
Ashmann-Gerst, J.

November 25, 2003 (Continued)

DIVISION TWO (Continued)

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The judgment is affirmed.

Boren, P.J.

We concur: Nott, J.
Ashmann-Gerst, J.

B165167 In re: Guillermo L. (Not for Publication)
v.
DCFS,
Mariana G.

The orders are affirmed.

Doi Todd, J.

We concur: Nott, Acting P.J.
 Ashmann-Gerst, J.

B166659 In re: Lidia R. (Not for Publication)
v.
DCFS
Daniel R.

The appeal is dismissed.

Boren, P.J.

We concur: Doi Todd, J.
 Ashmann-Gerst, J.

November 25, 2003 (Continued)

DIVISION TWO (Continued)

B159912 People (Not for Publication)
v.
Reed

The judgment is affirmed.

Doi Todd, J.

We concur: Boren, P.J.
Ashmann-Gerst, J.

B162081 People (Not for Publication)
v.
Chan

The judgment is affirmed.

Boren, P.J.

We concur: Nott, J.
Doi Todd, J.

B155574 People (Certified for Partial Publication)
v.
Grassini

The order under review is affirmed.

Ashmann-Gerst, J.

We concur: Nott, Acting P.J.
Doi Todd, J.

DIVISION THREE

B164634 People
v.
Bailey

(Not for Publication)

The sentence is ordered modified to include the required penalty assessments. As modified, the judgment is affirmed. The clerk of the superior court shall prepare a corrected abstract of judgment and to forward it to the Department of Corrections.

Klein, P.J.

We concur: Croskey, J.
 Kitching, J.

B163216 People (Not for Publication)
v.
Orosco

The judgment is affirmed.

Croskey, J.

We concur: Klein, P.J.
Kitching, J.

B158264 People (Not for Publication)
v.
Martinez

The judgment is affirmed.

Aldrich, J.

We concur: Klein, P.J.
Croskey, J.

November 25, 2003 (Continued)

DIVISION THREE (Continued)

B162369 People (Not for Publication)
v.
Livingston

The judgment is affirmed.

Aldrich, J.

We concur: Klein, P.J.
Kitching, J.

B164257 People (Not for Publication)
B164520 v.
Jackson

The judgments are affirmed.

Klein, P.J.

We concur: Croskey, J.
 Kitching, J.

DIVISION FOUR

B161918 Berglund (Not for Publication)
v.
The Director of the Department of Motor Vehicles

The judgment is affirmed.

Hastings, J.

We concur: Vogel (C.S.), P.J.
Curry, J.

DIVISION FOUR (Continued)

B160654 MacGillivray (Not for Publication)
 v.
 Wicke, et al.

The judgment is reversed. Appellant(s) to recover costs.

Hastings, J.

We concur: Vogel (C.S.), P.J.
 Curry, J.

B163262 People (Certified for Partial Publication)
 v.
 Fielder

The judgment is affirmed.

Vogel (C.S.), P.J.

We concur: Epstein, J.
 Curry, J.

B161643 Papen (Not for Publication)
 v.
 Callahan, McCune & Willis et al.

The judgment is affirmed.

Vogel (C.S.), P.J.

We concur: Epstein, J.
 Curry, J.

B157578 Glassman
 v.
 McNab, et al.

Filed order denying petition for rehearing.

November 25, 2003 (Continued)

DIVISION FIVE

B169324 People (Certified for Publication)
v.
Kevin Way

The appeal is dismissed.

Turner, P.J.

We concur: Grignon, J.
Armstrong, J.

DIVISION SIX

B162717 People (Not for Publication)
v.
Gonzalez, et al.

The judgment as to Bolden is modified to award Bolden 187 days of presentence credits: 125 days for actual custody and 62 days for conduct. (Pen. Code, Section 4019.) The trial court shall amend the abstract of judgment accordingly and transmit a certified copy to the Department of Corrections. In all other respects, the judgments as to Bolden and Gonzalez are affirmed.

Perren, J.

We concur: Gilbert, P.J.
 Coffee, J.

DIVISION EIGHT

Court convened at 9:00 A.M.

Present: Cooper, P.J., Rubin, J., Boland, J., Flier, J. and Emma Jean Amos, Deputy Clerk.

Each of the following:

B166510 People v. Frierson

DIVISION EIGHT (Continued)

Each of the following (continued):

B164923 DCFS v. Grace C.

Argument waived, cause submitted.

B158774 People
 v.
 Myles

Merits:

Argued by Judith Kahn for appellant and no appearance by counsel for respondent. Cause submitted.

B164707 Los Angeles County, D.C.S.
 v.
 Latosha Y.

Appearances:

Pam Landeros, Deputy County Counsel for respondent and no appearance by counsel for appellant. Argument waived, cause submitted.

B151533 Mobile Medical Diagnostics, Inc.
 v.
 Shapiro

Merits:

Argued by Stanley P. Lieber for appellant and by Jonathan Fink for respondent. Cause submitted.

B164361 Pasadena Live
 v.
 City of Pasadena

Merits:

Argued by Stuart L. Leviton for appellant and by Eric L. Troff for respondent. Cause submitted.

DIVISION EIGHT (Continued)

B162818 Wittman
 v.
 Los Angeles Unified School District

Appearances:
W. Keith Wyatt for respondent and no appearance by counsel for appellant.
Argument waived, cause submitted.

B164463 People
 v.
 Carrocci

Merits:
Argued by Richard E. Holly for appellant and by Paul Roadarmel, Jr.,
Deputy Attorney General for respondent. Cause submitted.

B161040 WCT Corporation
 v.
 City of Pasadena, et al.

Merits:
Argued by Christopher Sutton for appellant and by Frank L. Rhemrev,
Deputy City Attorney for respondents. Cause submitted.

B162649 Gurrola
 v.
 Pep Boys, et al.

Merits:
Argued by Michael F. Baltaxe for appellant and by Karen A. Rooney for
respondents. Cause submitted.

B159381 People
 v.
 Thabiti

Merits:
Argued by Ian Noel for appellant and by Tita Nguyen, Deputy Attorney
General for respondent. Cause submitted.

DIVISION EIGHT (Continued)

B160234 Union Pacific Railroad
v.
SFPP, L.P., et al.

Merits:

Argued by Neil Soltman for appellants and by Andrea Henningsen for respondent. Cause submitted.

B159651 Patel
v.
Kaiser Permanente, et al.

Appearances:

Arvind Patel, appellant in propria persona and Brooks Marshall for respondents. On the Court's own motion, oral argument is continued to December 11, 2003.

Court adjourned at 12:20 p.m.

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The judgment is affirmed.

Boland, J.

We concur: Cooper, P.J.
Rubin, J.